

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

|                                  |   |                              |
|----------------------------------|---|------------------------------|
| JAKE J. DAVIDSON,                | ) | CASE NO. 5:05 CV 1434        |
|                                  | ) |                              |
| Plaintiff,                       | ) | JUDGE JOHN R. ADAMS          |
|                                  | ) |                              |
| v.                               | ) |                              |
|                                  | ) |                              |
| CHARLES E. BROWN, Judge, et al., | ) | <u>MEMORANDUM OF OPINION</u> |
|                                  | ) | <u>AND ORDER</u>             |
| Defendants.                      | ) |                              |

On May 20, 2005, plaintiff pro se Jake J. Davidson filed this action under 42 U.S.C. § 1983 against Judge Charles E. Brown, Judge Sheila G. Farmer, Prosecutor John D. Ferrero, and Attorney James S. Manello. The complaint asserts defendants violated plaintiff's constitutional rights in connection with his 1991 conviction (pursuant to a guilty plea) and continuing incarceration for aggravated burglary (3 counts), aggravated robbery (3 counts) and rape. For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915A.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to

state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at \*2 (6th Cir. Feb. 1, 2000).

The Supreme Court has held that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475, 501 (1973). Further, absent allegations that criminal proceedings terminated in plaintiff's favor or that a conviction stemming from the asserted violation of his rights was reversed, expunged by executive order, declared invalid by a state tribunal, or called into question by a federal court's issuance of a writ of habeas corpus, he may not recover damages for his claim. Heck v. Humphrey, 512 U.S. 477 (1994).

Accordingly, this action is dismissed under section 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

s/John R. Adams 7/26/05  
JOHN R. ADAMS  
UNITED STATES DISTRICT JUDGE